

**ARLYCE SIEBERT
DEPOSITION TRANSCRIPT**

STATE OF MICHIGAN
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

MICHAEL DUPREE, JR., a Colorado Resident,
MICHAEL DUPREE, SR. and DARLENE DUPREE,
his parents, Residents of the Country of Austria,

Plaintiffs:

-vs-

Case No. 2010-CV-120940-LPZ-MKM
Hon. Lawrence Zatkoff
Mag. Mona K. Majzoub

CRANBROOK EDUCATIONAL
COMMUNITY, JOHN J. WINTER and
CHARLES SHAW,

Defendants:

_____ /

The deposition of ARLYCE SEIBERT, taken
before Lisa M. Fix, a Certified Shorthand Reporter and
Notary Public for the County of Wayne, State of
Michigan, at 38500 Woodward, Suite 100, Bloomfield
Hills, Michigan, on Thursday, the 13th Day of January,
2011, at 10:15 a.m.

APPEARANCES:

THOMAS, GARVEY, GARVEY & SCIOTTI
ATTORNEYS AT LAW
24825 Little Mack
St. Clair Shores, Michigan 40808
By: CHRISTOPHER SCIOTTI, ESQ.
Appearing on behalf of the Plaintiff:

HONIGMAN, MILLER, SCHWARTZ & COHN
ATTORNEYS AT LAW
660 Woodward, Suite 2290
Detroit, Michigan 48226
By: RUSSELL S. LINDEN, ESQ.
Appearing on behalf of the Defendant:

1 A Went to undergrad at University of Detroit, earned
2 a B.A. from the honors college there. Then went
3 to Oakland University where I earned a Master's in
4 MAT.

5 Q In what?

6 A Master's. An MAT in teaching emotionally
7 disturbed.

8 Q Can you give me an idea of your employment history
9 with Cranbrook Kingswood?

10 A It's Cranbrook Schools.

11 Q Okay.

12 A And it's 40 years I have been with Cranbrook
13 Schools. I began in September of '71 at Kingswood
14 School, so that was before a merger teaching
15 history. In 1979 I became head of the history
16 department, then became director of curriculum.
17 Then in 1987 became head of the upper school. And
18 in 1995 became director of schools.

19 Q And were you director of schools through -- from
20 1995 to present?

21 A Correct.

22 Q Okay. And as director of schools what are your
23 job duties?

24 A I have oversight of the elementary, the middle and
25 the upper schools.

1 Q How often would you have interaction with Michael
2 during his senior year, at least up until the
3 probation?

4 A I can't really recall how often on a numerical
5 basis, but I would characterize it in general
6 terms as occasional.

7 Q Okay.

8 A There were sometimes that there was an issue that
9 would bring us together more to discuss some
10 things.

11 Q Now, up until March when he was placed on
12 probation, how would you describe Michael as a
13 student being his advisor?

14 A He was struggling academically, and there were
15 issues that were coming to the attention of the
16 dean -- dean of students.

17 Q And who was that?

18 A John Winter.

19 Q Okay. What were those issues?

20 A Oh, and the academic dean, Debbie Ruthven.

21 Q Okay.

22 A Included some absence issues.

23 Q Okay.

24 A Or I should say attendance issues that included
25 both absence and tardiness. Tardies. It was in

1 his ability to complete assignments and to meet
2 the academic requirements. There was concern
3 about that.

4 Q Okay. When did you, if you remember, when did you
5 first learn about any issues that led to his being
6 placed on probation?

7 A When did I first learn? Um, I don't --

8 Q Was this --

9 A I don't recall by specific date --

10 Q Okay.

11 A -- or time. It would be, as practice has it,
12 prior to a Conduct Review Hearing.

13 Q Okay. What do you remember about the -- what do
14 you remember about the issues that led to his
15 probation?

16 A What I remember, having attended the Conduct
17 Review Board, is that there was, um, he was in
18 possession of pipe, a marijuana pipe that was
19 discovered in his book bag.

20 Q How did it become discovered, if you know?

21 A My understanding is that the dean was in the math
22 hall and saw a book bag, and this was at the same
23 time he was going into the math class to have a
24 conversation with Michael I think about an
25 attendance issue, and that led to the dean

1 the, um, Conduct Review Board which was the 28th.
2 Well, let me -- wait a minute. The meeting was
3 the 27th. The Conduct Review Board was the 27th,
4 and so the recommendation was shared to the head
5 of the upper school on the 27th, and then there
6 was a meeting with the parents on the 28th. So
7 that would be about right, it would be June 1st I
8 think is when the final decision was accepted.

9 Q Okay. Did you agree with that decision to dismiss
10 Michael Dupree, Jr?

11 A Yes, I did.

12 Q Take a look at Exhibit 1 first.

13 A Okay.

14 Q First of all, do you recognize Exhibit 1?

15 A Yes.

16 Q What is it?

17 A It is Sharon Peacock, the Dean of girls, personal
18 notes of the first probation for Michael --

19 Q Okay.

20 A -- on the Conduct Review Board.

21 Q Okay. Who is Sharon Peacock?

22 A Dean of girls.

23 Q Okay. And who's Eric L?

24 A I'm not sure that I recall who Eric L. is.

25 Q And I take it the blacked out squares would be

1 says June 4th. This might be quibbling, but
2 what's the significance of either date?

3 A Well, June 4th would be graduation day, June 6th
4 would be the Sunday.

5 Q Two days?

6 A I was going to say the Sunday afterwards, so.

7 Q Let's turn to the enrollment forms.

8 (Deposition Exhibits 3 - 4
9 marked for identification.)

10 Q (Continuing by Mr. Sciotti) I'm handing you
11 deposition -- well, here.

12 MR. LINDEN: Thank you.

13 Q (Continuing by Mr. Sciotti) Deposition Exhibit
14 Number 3. Can you tell me what that is?

15 A It looks like an Enrollment Contract used by the
16 school for the year 2003, 2004.

17 Q And are you familiar with those?

18 A Yes.

19 Q Did you look at that in preparation for your
20 deposition?

21 A Yes.

22 Q And could you take a look at Deposition Exhibit
23 Number 4 and tell me what that is?

24 A To be honest with you, I am not as familiar with
25 this document, so I really can't comment on it

1 -- that would define dismissal or withdrawal?

2 A There is none, to my knowledge, that I have ever
3 recalled seeing.

4 Q Okay.

5 A But the same time, I don't recall seeing this
6 particular document, so.

7 Q And you would admit, then, that Michael Dupree,
8 Jr. never did withdrawal from Cranbrook?

9 A I contend that he was dismissed, and dismissal is
10 an involuntary form of withdrawal.

11 Q I asked Cranbrook in writing to admit that Michael
12 Dupree, Jr. never withdrew from Cranbrook
13 Educational Community, and Cranbrook admitted it.
14 You disagree with that admission?

15 A I admit that he was dismissed, and that there was
16 -- and how I'm looking at it, an involuntary
17 withdrawal.

18 Q Were you familiar with Michael's requirements to
19 graduate in his senior year?

20 A Can you help me a little bit with that?

21 Q Yeah, were you familiar with what Michael needed
22 to do to graduate in 2004? What classes he had
23 to --

24 A Pass?

25 Q -- pass?

1 A Yes.

2 Q Papers?

3 A Yes.

4 Q Okay.

5 A I don't, um -- I may not know every single
6 situation, but in general, yes.

7 Q Okay. And prior to May 27th of 2004 did Michael
8 complete all the requirements?

9 A That was not my understanding, no.

10 Q What did he need to do?

11 A I think there were some papers, or there were some
12 outstanding work that still had to be done, or was
13 in the process.

14 Q I asked -- go ahead.

15 A But he, like any other senior, um, there is a
16 formal vote by the faculty the day before
17 graduation, since the diploma represents more than
18 completion of credits.

19 Q What more does it --

20 A It's a discussion of the student performance, and
21 there's a formal faculty vote to grant diplomas.

22 Q And was that formal faculty vote held in this
23 case?

24 A No, because the dismissal happened before the
25 formal vote was taken.

1 A Yes.

2 Q And then he makes the final decision?

3 A Except in the cases of dismissal, where it has to
4 be the head of the upper school and the director
5 of schools in agreement.

6 Q And who would that have been?

7 A That would have been Charlie Shaw and myself.

8 Q Okay. Now, going back to the May Conduct Review
9 Board. What prompted that Conduct Review Board?

10 A The school was notified, I was notified by the
11 chief operating officer of the Cranbrook
12 Educational Community regarding the findings of
13 the community's IT department regarding some
14 activity on the community's computers that was
15 student based.

16 Q All right. Tell me some specifics about it. Who
17 notified -- what's the name of the person that
18 notified you?

19 A His name is Doug Ebert.

20 Q Okay. And what's his capacity?

21 A He was at that time chief operating officer, and
22 the community IT department reported to him.

23 Q And what did they report? What did you hear?

24 A That, um, on the computers, that there was
25 evidence of activity that replicated decoys that

1 would then communicate the password and other
2 kinds of information of faculty and student ID's.
3 That there was on the H. drive of Michael,
4 evidence of a file entitled Spicer that was
5 deleted. And there was evidence on the student
6 files, Michael's files in the network -- network
7 storage, evidence of some activity that included
8 storage of log in passwords and possibly some
9 gambling activity.

10 Q Okay. What was the significance of the file
11 entitled Spicer that was deleted?

12 A Michael had that teacher last year, and it's
13 against the technology policy for students to have
14 access to faculty or other students' work.

15 Q I mean if the file was deleted, how did anybody
16 know that he had access to faculty?

17 A They weren't making a judgment, they were
18 providing just a summary of different kinds of
19 activities on the --

20 Q Okay.

21 A -- on the file, so.

22 Q The file Spicer could have contained Michael's
23 notes?

24 A Again, there was no -- the question that I
25 understood I was asking was what did they find.

1 Q Okay. But I guess I'm a little -- I want to stay
2 on this Spicer thing. If it was deleted, is there
3 something wrong with putting a name Spicer on a
4 file, a teacher's name?

5 A Again, I can't -- I'm not making judgment
6 regarding that, but what initiated this
7 investigation was that a faculty member saw on one
8 of the computers some test of another teacher, and
9 that led to this investigation.

10 Q But not on Michael's computer?

11 A On one of the school, I think it was library
12 computers.

13 Q Okay.

14 A I don't remember, and that led to a further
15 investigation of this.

16 Q Okay. So let's talk about this Conduct Review
17 Board in May. You think it was either May 27th or
18 28th?

19 A Yeah, I'm sorry that I don't remember exact date.

20 Q Is there a way to find out?

21 A I would have to look through more materials to
22 confirm it.

23 Q Okay. What materials would you be looking at?

24 A Um, I'm not actually sure where I would. I think
25 I would try to look at a calendar and see if I

1 Q Okay.

2 A -- by the respective deans. So that becomes sort
3 of the official summary.

4 Q So like on the Exhibit 2 --

5 A I'm sorry, I'm showing this. Yes, like the March
6 12th letter.

7 Q And that summarizes --

8 A Yes.

9 Q -- the findings and the punishment --

10 A Correct.

11 Q -- probation, etcetera?

12 A Correct. Correct.

13 Q So you keep those?

14 A Correct.

15 Q Okay. Now, I think we discussed it a little bit,
16 but what were the concerns from the IT department
17 at Cranbrook regarding Michael Dupree, Jr. that
18 prompted this Conduct Review Board Hearing in May?

19 A The safety and the integrity of the computer
20 system that extends itself even beyond the
21 schools.

22 Q Okay. But as far as Michael Dupree, Jr. is
23 concerned, what were the issues in this Conduct
24 Review Board Hearing? You indicated that there
25 was a file that was deleted.

1 A There was a question of a password being shared
2 with another student.

3 Q Okay.

4 A There was then the activity that I characterized
5 earlier to you.

6 Q Okay. And that was the file Spicer that was
7 deleted?

8 A Uh-huh.

9 Q Yes?

10 A Yes. I'm sorry.

11 Q And then we talked about giving away his password.

12 A Correct.

13 Q And what else?

14 A There were two other things that I recall, and one
15 was creation of decoys that as people logged in
16 they would mimic and capture those passwords. And
17 is seemed that, again I'm doing this by memory, a
18 significant number of faculty and student
19 passwords were captured through this decoy
20 procedure, and that was captured on the H. drive
21 or network storage.

22 Q And you also indicated that there was an issue
23 with gambling?

24 A That they found some gambling activity. I don't
25 know anything more than that.

1 Q You wouldn't know whether the gambling activity
2 was for actual money or for fun?

3 A I really don't know how to characterize it other
4 than how it was presented, that there was some
5 evidence.

6 Q Okay. Does a Conduct Board Review hearing have to
7 be conducted before a student is dismissed?

8 A What I am trying to recollect, has there ever been
9 anytime that I can recall somebody being dismissed
10 without a Conduct Review Board?

11 Q The reason I ask that, there must be some student
12 could do something so egregious that maybe a
13 Conduct Review Board Hearing would not be
14 necessary. I don't know.

15 A I can't recall any specific example to draw upon
16 to support that as a conclusion.

17 Q Okay. And what are the standards for dismissal?

18 A The standards are, um, major school violations,
19 which are characterized in the Student Handbook,
20 or a pattern of behavior. Um, a student that
21 continues -- student hasn't learned from his or
22 her mistakes. There is a greater expectation
23 regarding student behavior at the senior level
24 than at the 9th grade level. So those would be
25 some of the criteria.

1 Q Okay. So the major violations, those are spelled
2 out in the Student Handbook?

3 A Yes.

4 Q Okay. Anywhere else?

5 A None that comes to mind.

6 Q Okay. And the pattern of behavior, that's not
7 spelled out in the Student Handbook?

8 A I think there is a statement in there, something
9 that talks about a pattern of behavior.

10 Q Okay.

11 A I couldn't tell you what page it's on, but I
12 recall, and I think in my review this morning
13 seeing language to this effect.

14 Q Okay. And what was Michael Dupree dismissed for,
15 a major violation?

16 A Of the technology use.

17 Q And can you tell me exactly what that violation
18 was?

19 A It was the findings of the IT department.

20 Q And what were those findings?

21 A That's what I shared with you, or general
22 characterization. I think in something we have
23 submitted there is a memo to that effect what
24 their findings were.

25 Q I didn't see that memo.

1 A Um.

2 Q Is there --

3 A I thought there was.

4 Q Did you review a memo?

5 A I did review a memo that came.

6 Q And the memo was from who?

7 A The IT department.

8 Q Okay. And that was their findings from the

9 Conduct Review Board for Michael?

10 A Not -- no, not their findings, it was for -- could
11 be used in that.

12 Q I haven't seen that memo, so I want to ask you
13 some questions about it. Was the memo from the IT
14 department before?

15 A Yes.

16 Q Okay. I did see that.

17 Did you review that today?

18 A This morning I believe I reviewed it. It was
19 either last night or this morning.

20 Q Okay.

21 A And I think the date is either May 24th or 25th.

22 Q Okay. Just bear with me one moment.

23 MR. SCIOTTI: Okay. Let's
24 mark this.

25 (Deposition Exhibit 7 marked

1 A They have been. I can't say that that procedure
2 happens every year in the same fashion as I'm
3 describing it.

4 Q Now, did they vote on Michael Dupree, Jr?

5 A Because he was dismissed there would not have been
6 his, um, diploma considered for that vote.

7 Q Well, was it -- was the vote taken after June 1st?

8 A Yes.

9 Q Okay.

10 A It's taken the day before graduation. It's the
11 morning -- the prom occurs on a Wednesday, a
12 formal vote is taken before the rehearsals at --
13 of each of the two classes, and the formal vote is
14 taken the morning, Thursday morning and graduation
15 is the next day.

16 Q Okay.

17 A So graduation is June 4th.

18 Q And even though it appears that Michael Dupree
19 completed all of his course requirements because
20 he was dismissed on June 1st, is that the sole
21 reason he -- the faculty didn't vote whether to
22 grant him a diploma?

23 A Because he was dismissed from Cranbrook, he would
24 not be part of the vote taken by the faculty.

25 Q Okay. And what's the -- what is the standard that

1 the faculty applies whether or not to grant a
2 diploma or not?

3 A There's discussion if their behavior or
4 performance meets the standard of Cranbrook.

5 Q And that's what I need to know. What is that
6 standard?

7 A That they have met academic requirements, being
8 the graduation, which the academic deans would
9 comment on, and the behavior, which the Dean of
10 boys or the Dean of girls would comment, or the
11 head of the upper school.

12 Q If a teacher -- if a faculty member let's say do
13 to behavior, let's say a student -- strike that,
14 let me ask this question.

15 Let's say there was a student
16 that met the academic requirements but had some
17 behavioral issues.

18 A That could be discussed, yes.

19 Q Could be discussed.

20 And could a faculty member
21 decide just arbitrarily I don't think this person
22 -- this student deserves a diploma?

23 A I would not characterize it as arbitrarily. There
24 was some major transgression that only that
25 teacher became aware of they may bring it up in

1 that Michael Dupree, Jr. never withdrew from
2 Cranbrook and they admitted it, you disagree with
3 that?

4 A I believe that how we interpret withdrawal is, as
5 I mentioned previously, an involuntary withdrawal,
6 which includes dismissal.

7 Q If Michael Dupree, Jr. completed all the courses
8 as reflected in the transcript, how can stamping
9 withdrawal on the transcript be correct?

10 A I'm not sure what your question's asking.

11 Q If Michael Dupree, Jr. completed all the
12 requirements as reflected on that transcript, how
13 could stamping withdrawal as of June 1st, 2004 be
14 correct?

15 A The reason I'm having difficulty with the question
16 is because a diploma is granted after a formal
17 faculty vote, so I don't understand your question
18 because of that procedure.

19 Q Well, I'm not asking really about the diploma at
20 this point.

21 A Okay.

22 Q What I'm asking is about the transcript that you
23 have in front of you.

24 A Uh-huh.

25 Q Okay?

1 A I don't recall.

2 Q Okay.

3 A I may have been told, but I don't recall it.

4 Q What did -- as far as the Conduct Review Board in
5 May, what do you -- what's your understanding of
6 what Michael admitted?

7 A That he accepted responsibility for passing the
8 password to another student.

9 Q Okay. And denying all else?

10 A That was my understanding.

11 Q Okay. And what was the Conduct Review Board's
12 findings regarding Exhibit 7 and the allegations
13 as far as Michael Dupree, Jr. was concerned?

14 A Can you ask that question again a little --

15 Q Well, let me strike that question, I'll come back
16 to it. Let me ask you this first.

17 In your opinion is giving out
18 his password in September '03 to Randy, is that a
19 major school violation?

20 A Yes.

21 Q Okay. And is that under the handbook?

22 A Yes, I think it's found on page 71-ish.

23 MR. LINDEN: Do you know how
24 much longer you're going to be with --

25 MR. SCIOTTI: I don't think a